

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVEN M. ROGERS and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Cleveland, Ohio

*Docket No. 96-1069; Oral Argument Held March 4, 1999;
Issued April 20, 1999*

Appearances: *Joseph Lewandowski, Esq.*, for appellant; *Sheldon G. Turley, Jr., Esq.*,
for the Director, Office of Workers' Compensation Programs.

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained an emotional condition causally related to compensable factors of his federal employment.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained left wrist injuries causally related to his federal employment. By decision dated November 29, 1993, the Office determined that appellant had not established that he sustained an emotional condition causally related to his employment injuries. By decision dated February 22, 1995, the Office denied modification of the prior decision. In a decision dated January 12, 1996, the Office again denied modification.¹

The Board finds that the case is not in posture for decision and requires further development.

In the present case, appellant has submitted supporting medical evidence regarding an employment-related emotional condition. In a report dated July 5, 1994, Dr. Manohar S. Kelkar stated that appellant had recurring physical and psychological trauma that were both directly

¹ There is a separate claim for an emotional condition causally related to federal employment, OWCP File No. A9-361733. The January 12, 1996 decision being reviewed on this appeal addressed both claims. The only file submitted to the Board was A9-329349, relating to the left wrist claim, since this was the file identified by appellant.

caused by his work-related injuries. In a report dated March 27, 1995, Dr. Francis Chiappa, a clinical psychologist, stated in pertinent part:

“It is my opinion that [appellant’s] work environment was the major contributing factor in his depression. He had suffered on the job, according to his physician Dr. Kelkar, physical injuries to his wrist and back. According to [appellant], his supervisors disregarded these injuries, resulting in their exacerbation. Being assigned to work that one is physically unsuited to perform and which will cause further pain and physical injury will foster a sense of helplessness and lack of control of one’s fate. These are essential underlying features of depression, as the individual develops symptoms in response to their sense that life is a downward spiral beyond their control. Furthermore, [appellant] reported interpersonal conflict and verbal abuse in the work setting. In my opinion, this combination of work-related factors caused the above symptoms to develop and as the work situation did not improve, the eventual outcome was a major depressive episode and an inability to work.”

The Board finds that the uncontroverted medical evidence is sufficient to require further development of the claim.² As noted above, appellant also had a separate claim for an emotional condition, and the January 12, 1996 decision had denied modification of prior decisions in that claim. Since the claim for an emotional condition from the employment injury raises similar and interrelated issues,³ the case records should be combined. On return of the case record the Office should prepare a detailed statement of accepted facts regarding compensable and noncompensable work factors and secure a reasoned medical opinion as to whether appellant has sustained an emotional condition causally related to compensable work factors.⁴ After such further development as the Office deems necessary, it should issue an appropriate decision.

² See *Gary L. Fowler*, 45 ECAB 365 (1994) (appellant submitted uncontroverted medical evidence supporting an emotional condition causally related to federal employment that was sufficient to require further development); see also *Horace Langhorne*, 29 ECAB 820 (1978).

³ For example, the decisions from File No. 361733 indicate that the Office accepted that appellant was forced to work outside his restrictions, which appellant claims aggravated the employment injuries accepted under File No. 329349.

⁴ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Statements of Accepted Facts*, Chapter 2.809.13(b) (June 1995), which provides that the claims examiner must distinguish between those workplace activities and circumstances that are factors of employment and those which are outside the scope of employment for purposes of compensation. The physician should be asked to give an opinion on causal relationship with reference to specific work factors.

The decision of the Office of Workers' Compensation Programs dated January 12, 1996 is set aside and the case remanded for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.
April 20, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member